

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Multi-Association Group (MAG) Plan for)	CC Docket No. 00-256
Regulation of Interstate Services of)	
Non-Price Cap Incumbent Local Exchange)	
Carriers and Interexchange Carriers)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Access Charge Reform for Incumbent)	CC Docket 98-77
Local Exchange Carriers Subject to)	
Rate-of-Return Regulation)	
)	
Prescribing the Authorized Rate of Return For)	CC Docket 98-166
Interstate Services of Local Exchange Carriers)	

COMMENTS OF

**EVANS TELEPHONE COMPANY
HUMBOLDT TELEPHONE COMPANY
KERMAN TELEPHONE CO.
OREGON-IDAHO UTILITIES, INC.
PINE TREE TELEPHONE & TELEGRAPH COMPANY
PINNACLES TELEPHONE CO.
THE PONDEROSA TELEPHONE CO.
THE SISKIYOU TELEPHONE COMPANY
THE VOLCANO TELEPHONE COMPANY
WAR TELEPHONE COMPANY**

**ON THE PETITION FOR RULEMAKING OF
THE LEC MULTI-ASSOCIATION GROUP**

Dated: February 26, 2001

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**COMMENTS OF SMALL RURAL LECS
ON THE PETITION FOR RULEMAKING OF
THE LEC MULTI-ASSOCIATION GROUP**

In response to the Commission's December 21, 2000, Notice of Proposed Rulemaking (NPRM) seeking comment on the October 20, 2000, Petition for Rulemaking of the LEC Multi-Association Group (MAG), Evans Telephone Company, Humboldt Telephone Company, Kerman Telephone Co., Oregon-Idaho Utilities, Inc., Pine Tree Telephone & Telegraph Company, Pinnacles Telephone Co., The Ponderosa Telephone Co., The Siskiyou Telephone Company, The Volcano Telephone Company, and War Telephone Company (the Small Rural LECs) respectfully present their following comments in support of the MAG Petition and the Plan it advances for adoption by the Commission.

I. INTRODUCTION.

1. The Small Rural LECs are small, independent local exchange carriers serving high-cost, rural areas in the states of California, Idaho, Maine, Nevada, Oregon, and West Virginia. As small, incumbent LECs, they offer a full range of interstate access services under existing tariffs and procedures, and they also receive support for a substantial portion of their costs of operation from interstate universal service support mechanisms, under the Commission's rules. Each of the Small Rural LECs is classified as a "Rural Telephone Company" (RTC) under the Telecommunications Act of 1996 (1996 Act),¹ and each has been designated as an "Eligible Telecommunications Carrier" by its state commission.

2. The Small Rural LECs provide high-quality telecommunications services to their rural customers--standards of service that directly result from and will continue to depend upon the availability of adequate support funds to meet the high costs of operation in their rural service territories. The MAG Plan addresses this obvious need, while simultaneously proposing adaptations of existing access and support mechanisms to accommodate the new, competitive environment envisioned by the 1996 Act. The scope of regulatory issues addressed and resolved by the "holistic" approach of the MAG Plan offers a solution to the regulatory logjam that has resulted from prior efforts at fashioning regulatory policies that address the requirements of the 1996 Act, while recognizing the unique circumstances of RTCs and the communities and customers they serve.

¹47 U.S.C. Section 153 (37).

II. THE COMMISSION SHOULD GRANT THE PETITION OF THE MULTI-ASSOCIATION GROUP AND ADOPT THE MAG PLAN.

A. The MAG Plan Represents a Balanced Solution to the Many Unresolved Regulatory Issues Affecting Non-Price Cap Carriers.

3. The goals of the MAG Proposal are summarized at page ii of the MAG Petition:

The plan seeks to address in a comprehensive manner the numerous issues that face non-price cap LECs. The plan would create more efficient cost recovery under the Commission's access charge system while making universal service support more explicit and enforcing the geographic averaging requirements of the Communications Act. The plan will help ensure that up-to-date broadband infrastructure and advanced services will be widely available to all Americans, consistent with section 706 of the Act.

The Petition also notes that the Plan is consistent with, although not identical to, the Rural Task Force Recommendation on universal service issues² and with the CALLS access reform plan recently adopted by the Commission for price cap carriers.³ The principal features of the MAG Plan include:

- Access charge structure reform to raise subscriber line charges (SLCs) and decrease common line charges, similar to the CALLS approach.
- An optional incentive-based regulatory path for further reduction of per-minute access rates, which is also extended to include universal service funding.
- Required flow-through of these usage-based access charge reductions to lower IXC rates, accompanied by enforcement of the geographic rate averaging requirements of the

²The RTF Recommendation has been forwarded to the Commission by the December 22, 2000, Recommendation of the Federal-State Joint Board on Universal Service, which recommends that the Commission adopt and implement the RTF proposal. The Commission has issued a Further Notice of Proposed Rulemaking in CC Docket No. 96-45, calling for comments on a parallel cycle with the comments in the within proceeding. The Small Rural LECs are concurrently filing comments in support of the RTF Recommendation in that docket.

³CALLS Order, 15 FCC Rcd 12962.

1996 Act and elimination of current IXC rate plan redlining policies.

- Elimination of current funding caps that can operate to limit support to levels insufficient to comply with Section 254 of the 1996 Act.

4. These policy recommendations are interrelated and cannot reasonably be implemented in a piecemeal fashion. As a package, however, they address and resolve the significant regulatory issues affecting small, rural LECs under the 1996 Act--issues which today remain unresolved despite five years of regulatory proceedings attempting to implement the Act.

B. The MAG Plan Appropriately Provides for the Wide Diversity That Exists Among Small LECs.

5. The MAG Plan recognizes the extreme diversity among non-price cap LECs with respect to company size, service area density, and geographically-driven cost characteristics:

The plan's features, and particularly the two regulatory paths it adopts, reflect the great diversity of non-price cap LECs. These LECs range in size from those serving a few hundred customers to multiple thousands. They serve the most rural areas of the United States as well as some growing suburban areas. Non-price cap LECs are regulated at the federal level under systems as different as average schedule and cost regulation, although the overwhelming majority participate in the NECA pooling system. As distinguished from the CALLS order, this plan accounts for these differences, and does so in a comprehensive, flexible manner.⁴

6. This flexibility is accomplished by the MAG Plan's incentive regulatory path, which is optional, but which also provides incentives to encourage company participation. The optional incentive path is likely to include most of the larger non-price cap LECs, which have greater consistency in their year-to-year investment and expense levels, in contrast to the greater

⁴MAG Petition, p. 7, footnote omitted.

volatility of the smaller carriers.⁵ The participation of the larger non-price cap carriers in the incentive regulatory path will provide per-minute access rate reductions that will be applicable to a large majority of the total access lines subject to the MAG Plan,⁶ thus furthering the Commission's goal of reducing these charges where feasible.

C. Adoption of the MAG Plan Will Reduce Long Distance Rates and Ensure the Availability of IXC Special Rate Plans for Residential and Small Business Customers in Non-Price Cap LEC Service Territories.

7. The MAG Plan directly responds to the requests of the IXCs for reduction in per-minute access charge rates, to enable reduction of long-distance charges. The Plan also requires the direct flow-through of these access charge savings to consumers, thus ensuring that this potential consumer benefit will, in fact, be realized. More importantly, the Plan proposes to enforce the currently-ignored requirements of the 1996 Act for geographic toll rate averaging, by requiring IXCs to offer their special rate plans to all customers on a ubiquitous basis, eliminating current IXC rate plan redlining practices.

8. The NPRM seeks comment on how the Commission will be able to enforce the rules requiring that IXCs actually pass through to consumers the benefits they will receive from access charge reductions under the MAG Plan.⁷ As the NPRM notes, the Commission does not regulate

⁵The "lumpy" investment pattern referred to in paragraph 19 of the NPRM will remain a fact of life for the smallest carriers. A company with only two central offices necessarily replaces 50% of its switching facilities when it purchases a single switch.

⁶Only 10% of Rural Carriers serve 20,000 lines or more, but these "large" Rural Carriers serve 67% of all Rural Carrier access lines. The 48% of Rural Carriers which serve 2,500 or fewer lines account for only 5% of all Rural Carrier access lines. See Rural Task Force White Paper No. 2, The Rural Difference, at pp. 25-26.

⁷NPRM at paragraph 23.

IXC rates. It does not, however, follow that the Commission's rules cannot establish a policy framework that will be applicable to IXC pricing policies, especially when the underlying policy of geographic rate averaging is compelled by the terms of the 1996 Act.⁸ IXCs may reasonably be expected to comply voluntarily with such requirements, and IXC violations of these policies may be enforced by the Commission through the same complaint processes that are applicable to enforcement of other Commission rules.

III. RELATION OF THE MAG PLAN PROPOSAL TO THE RURAL TASK FORCE RECOMMENDATION.

9. The Commission has received the Recommended Decision of the Federal-State Joint Board on Universal Service recommending adoption of the universal service policies developed by Rural Task Force (RTF). As noted above, the Small Rural LECs support both the MAG Plan and the RTF Recommendation and are filing comments in support of the RTF Recommendation in CC Docket No. 96-45.

10. The MAG Plan and the RTF Recommendation are fundamentally consistent, although they differ in certain respects. The MAG Plan addresses a broader scope of issues, most notably in the area of access charge reform and the proposed separations freeze. The RTF Recommendation does include a proposal for establishment of a separate "... High Cost Fund III, to replace support implicit within current access charges collected by Rural Carriers."⁹ The RTF Recommendation does not, however, specify details of its High Cost Fund III proposal. Instead, the Recommendation proposes a list of nine principles that should be reflected in interstate

⁸47 U.S.C. Section 254 (g).

⁹RTF Recommendation at p. 30.

access charge reform for small rural carriers. These principles, as reflected in the RTF Recommendation and advanced to the Commission by the Joint Board's approval of the RTF Recommendation, are consistent with the MAG Plan's proposal for reform of interstate access charges. In this respect the two proposals are complementary.

11. The primary focus of the RTF Recommendation is on "traditional" universal service support that is not currently included in the interstate access charge system. For the most part, the MAG Plan proposals on these universal service issues are consistent with the RTF Recommendation. Both proposals demonstrate the unworkability of hypothetical, model-based universal service funding for small, rural carriers. Both plans propose, instead, a transition of the current cost-based support system to accommodate the requirements of a competitive environment, including portability of support to competitive carriers. While the two plans differ in certain technical aspects,¹⁰ the areas of difference are minor in comparison to the areas of consistency between the two proposals.

12. In one significant respect, the MAG Plan represents an extension of rather than a replacement of the RTF Recommendation for universal service support. While both plans preserve actual operating costs as the fundamental measure of universal service support, the MAG Plan presents companies with the additional option to include universal service support within the "Path A" system of incentive regulation. This is, however, a matter of company election, and companies whose circumstances would be adversely affected by the election may

¹⁰The MAG Plan, for example, proposes three "zones" of cost disaggregation, while the RTF Recommendation allows self-certification with two zones or additional disaggregation when approved by the state commission. The MAG Plan also provides for removal of certain funding limitations or "caps," which are addressed in the RTF Recommendation for re-indexing of the caps.

continue to receive universal service support based on actual costs.

IV. CONCLUSION.

13. Adoption of the MAG Plan by the Commission will implement a balanced solution to the wide range of unresolved regulatory issues affecting Rural Telephone Companies under the 1996 Act. The MAG Plan presents reasonable and workable policies to accomplish access reform, separations reform, and adaptation of universal service mechanisms to a competitive environment. The Small Rural LECs urge the Commission to break through the regulatory logjam on these issues and adopt the MAG Plan.

Dated: February 26, 2001

Respectfully Submitted,

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OREGON-IDAHO UTILITIES, INC.
PINE TREE TELEPHONE & TELEGRAPH COMPANY
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/s/

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